

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 08-0489V

Filed: May 7, 2014

Not To Be Published

KOREN MCKENZIE,
parent and natural guardian of
E.J., a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

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Autism; Stipulation;
Attorneys' Fees and Costs

Robert J. Krakow, Esq., Law Office of Robert J. Krakow, P.C., New York, NY for
petitioner.

Ann D. Martin, Esq., US Department of Justice, Washington, DC for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Vowell, Chief Special Master:

In this case under the National Vaccine Injury Compensation Program,² I issued a decision dismissing this petition on January 17, 2014. On May 6, 2014, the parties filed a stipulation of facts concerning attorneys' fees and costs. In lieu of filing a General Order 9 statement, petitioner's counsel represents that he will reimburse

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006).

petitioner for any personal litigation costs compensable under the Vaccine Act from the award of attorneys' fees and costs in this case. Stipulation at ¶ 5.

I find that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. §§ 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate.

Accordingly, I hereby award the total \$12,000.00³ in the form of a check payable jointly to petitioner, Koren McKenzie and petitioner's counsel of record, Robert J. Krakow, for petitioner's attorney fees and costs.

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/ Denise K. Vowell
Denise K. Vowell
Chief Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C. § 300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See *generally Beck v. Sec'y, HHS*, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).